IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

Crl.Rev.Pet.No. 1596 of 2007()

AGAINST THE ORDER DATED 14/12/2005 IN CMP.12206/2005 IN ST.1516/2005 of JUDL.MAGISTRATE OF FIRST CLASS COURT, OTTAPPALAM

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REVN. PETITIONER: REVISION PETITIONER/SOLE ACCUSED

P.T.BASHEER, S/O.KUNJALI, AGED 34 YEARS,
KANDACHANTHODI VEEDU, VELIMUK AMSOM DESOM,
CHELARI, MATHAPUZHA ROAD, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.RAVI K.(PARIYARATH)

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
SHORANUR THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. C.M. KAMMAPPU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 1596 OF 2007

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Dated this the 25th day of May 2007

O R D E R

The revision petitioner/accused in S.T. No. 1516/2005, who had initiated proceedings under Section 48 c of Kerala Police Act, has sought for lifting of the attachment vide application filed under Section 85(3) of Cr.P.C. The court below dismissed the application at the threshold mentioning that the accused surrendered before the court after two years from the date of attachment. It is submitted that he had also sought for condoning the delay which was not considered by the court below. The counsel has relied on the decision reported in **Pharma Kuries (P) Ltd., v. Soju** (2006(4) KLT 326).

2. I find that the date of surrender is irrelevant so far as Section 85(3) Cr.P.C is concerned. The order of the court below is set aside. The court below is directed to re-consider the application filed and dispose of the same on merits. The revision petitioner shall appear before the court below on **15.06.2007.**

The Crl.R.P is allowed accordingly.

K.R. UDAYABHANU, JUDGE.

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